

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ANTHONY BRADSHAW,

Plaintiff,

CIVIL ACTION NO. 14-cv-12798

v.

DISTRICT JUDGE PATRICK J. DUGGAN

GENESEE, COUNTY OF, et al.,

MAGISTRATE JUDGE MONA K. MAJZOUN

Defendants.

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OPINION AND ORDER GRANTING DEFENDANTS' MOTION TO COMPEL [21]

This matter comes before the Court on Defendants Genesee County and R. Rainwater's Motion to Compel Plaintiff's Answers to Interrogatories and Responses to Request for Production of Documents. (Docket no. 21.) Plaintiff has not filed a response to the Motion. The Motion has been referred to the undersigned for consideration. (Docket no. 22.) The Court has reviewed the pleadings and dispenses with oral argument pursuant to Eastern District of Michigan Local Rule 7.1(f)(2). The Court is now ready to rule pursuant to 28 U.S.C. § 636(b)(1)(A).

On November 21, 2014, Defendants served Plaintiff with Interrogatories, a Request for Production of Documents, and a Notice of Taking Deposition *Duces Tecum*. (Docket no. 21 at 2; docket no 21-2.) Defendants contend that Plaintiff failed to serve written responses or objections to the discovery requests by the December 21, 2014 deadline and that Plaintiff's counsel did not respond to Defendants' counsel's January 2015 email inquiries regarding the overdue discovery responses. (*Id.* at 2-3; docket nos. 21-3 and 21-4.) On February 9, 2015, Plaintiff's Counsel filed a Motion to Withdraw as Counsel. (Docket no. 17.) While that motion

was pending, Defendants filed the instant Motion, seeking an order compelling full and complete responses to their Interrogatories and Request for Production of Documents as well as the costs and attorney's fees incurred in filing this Motion. (Docket no. 21.) On March 30, 2015, the Court granted Plaintiff's counsel's Motion to Withdraw and ordered Plaintiff to respond to the instant Motion to Compel personally or with the assistance of newly-retained counsel within thirty days. (Docket no. 26.)

Federal Rules of Civil Procedure 33 and 34 allow a party to serve interrogatories and requests for production of documents on an opposing party. Fed. R. Civ. P. 33, 34. A party receiving these types of discovery requests has thirty days to respond with answers or objections. Fed. R. Civ. P. 33(b)(2), 34(b)(2)(A). If the party receiving discovery requests under Rules 33 or 34 fails to respond properly, Rule 37 provides the party who sent the discovery the means to file a motion to compel. Fed. R. Civ. P. 37(a)(3)(B). If a court grants a Rule 37 motion to compel, or if discovery is received after a Rule 37 motion is filed, then the court must award reasonable expenses and attorney's fees to the successful party, unless the successful party did not confer in good faith before the motion, the opposing party's position was substantially justified, or other circumstances would make an award unjust. Fed. R. Civ. P. 37(a)(5)(A).

Defendants contend that Plaintiff failed to respond to their discovery requests or to the instant Motion within the allotted time period, and Plaintiff has not shown otherwise. The fact that Plaintiff is now proceeding *pro se* does not excuse him from this responsibility. By not filing any proper objections during the response period, Plaintiff has waived any objections to the discovery. Because Plaintiff also did not respond to Defendants' Motion, the Motion is unopposed. The Court will, therefore, grant Defendants' Motion to Compel. Plaintiff has not demonstrated that his nondisclosure was substantially justified or that other circumstances make

an award of expenses unjust; accordingly, Rule 37 sanctions are appropriate in this case, and the Court will order Plaintiff to pay Defendants' reasonable expenses and attorney's fees pursuant to Fed. R. Civ. P. 37(a)(5). The Court will also order Defendants to submit a Bill of Costs.

IT IS THEREFORE ORDERED that Defendants' Motion to Compel [21] is **GRANTED**. Plaintiff is ordered to submit to Defendants' counsel full and complete responses to Defendants' Interrogatories and Request for Production of Documents, without objection, within thirty (30) days of this Opinion and Order.

IT IS FURTHER ORDERED that Plaintiff pay the reasonable expenses and attorney's fees incurred by Defendants as a result of bringing the instant Motion. Defendants are ordered to submit to the Court a Bill of Costs itemizing the same within thirty (30) days of this Opinion and Order, at which time the Court will determine the amount of costs and fees for which Plaintiff is liable.

Plaintiff's failure to comply with this order may result in dismissal of Plaintiff's claims against Defendants.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of fourteen days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. § 636(b)(1).

Dated: September 15, 2015

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Opinion and Order was served upon Anthony Bradshaw and counsel of record on this date.

Dated: September 15, 2015

s/ Lisa C. Bartlett
Case Manager